

**MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 19<sup>th</sup> DAY OF JANUARY, 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6PM.**

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Tom Cole, Mac Woodward, Jack Wagamon, Wayne Barrett, Dalene Zender, Melissa Mahaffey, Charles Forbus, Lanny Ray

COUNCILMEMBERS ABSENT: None

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

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**WORKSHOP SESSION [5:30PM] (Councilmember Ray arrived at 5:52pm)**

**Council will discuss first six roads on the priority list. [Bill Baine, City Manager]**

The Mayor called the meeting to order at 5:30pm. City Manager Bill Baine presented the priority list items to be discussed (below).

PROJECT
25th Street (I-45 to Sycamore)
I-45 North/75 North/1791 Interchange
FM1374 widening to urban arterial (I-45 to Darrell White Road)
Powell Road (I-45 to Sam Houston Avenue)
Powell Road overpass to Veterans Memorial
Avenue M (I-45 to Josey) improvements

He said that item 2 was a major problem and that it was his understanding that TxDOT was working on the underpass at that location. Mr. Baine also encouraged the Council to have priorities when they came to discussing funds other than City money. Mr. Baine further said the City had been working on gaining right-of-way on FM 1374 for a number of years, and would then need assistance from the state.

Councilmember Wagamon asked if there was a circulation issue at Powell Road around the Ford dealership, that no one had to go down there, and Mr. Baine responded it would be nice to have an overpass there for the eventual circulation of the City, to be able to turn around without having to go down to Goree.

Councilmember Mahaffey asked if she should leave in respect to her conflict of interest on 25<sup>th</sup> Street, but it was decided she was entitled to hear the information, and that no action would be taken in the workshop. Councilmember Mahaffey said she would not be asking questions on that item.

Councilmember Forbus asked if there were grant opportunities for these items, and whether the projects could be broken down into incremental portions that were affordable.

The Mayor said he felt they were looking at two layers of projects; those that essentially were going to be TxDOT projects and needed to be prioritized by the City, and those within the City. He said it would be a policy decision to choose whether to spend money on creating new roads versus repairing existing roads.

The City Manager responded to Councilmember Forbus' question about grants by saying his experience was that there was roughly a requirement of three businesses for economic development assistance from the federal government, and that he was interested in pursuing this. He said that would often be on the west side of town or on Highway 19. Mr. Baine said another avenue was working together with other local entities, as was done recently [on the Highway 19 improvements]. He said creative thinking in order to improve services for the citizens was important.

Councilmember Barrett said they had yet to see the results of the anticipated removal of the on-ramp by Burger King, and that there were possibilities on Montgomery Road and Highway 19. He said the City should think about discouraging through traffic and trying to protect the quality of life in neighborhoods like the Avenues that may end up with more cut-through traffic. He said if they did not intentionally discourage it, they would end up with a swarm of cars through those neighborhoods, and was very disinclined to permit cut-throughs there.

Councilmember Wagamon concurred with Councilmember Barrett and the City Manager that losing the on-ramp at Burger King would be an unmitigated disaster and hoped the Council could possibly stop its removal. Councilmember Wagamon went on to suggest that perhaps there should be two parallel priority lists, one for "huge" money from grants and one for money from the City budget.

Councilmember Forbus said he would encourage economic development on any side of town. The City Manager said they should not lose sight of a circulation road parallel to the interstate feeders. Dr. Cole said that FM2821 to FM1791 project should be last on the list, as it was an ecological disaster. He also said commerce depended on traffic being slowed, and agreed with Councilmember Barrett's view of controlling neighborhood traffic.

Councilmember Mahaffey said the City needed to balance road maintenance with new construction, and agreed with Councilmember Forbus on looking for smaller pieces of projects that could be done. The City Manager said he would like the Council to think about the I-45/Highway 75 interchange and whether it would be a priority of the Council. The Mayor said he also thought it was important that the City have a priority in case money was available from TxDOT. Councilmember Woodward asked that the Council consider major problems while prioritizing. He said if it was a break-even on maintenance, then building roads would put them further behind.

The meeting adjourned at 5:56pm.

#### REGULAR SESSION\* [6:00PM]

##### 1. CALL TO ORDER

Mayor Turner called the meeting to order at 6:00pm.

##### 2. PLEDGES OF ALLEGIANCE

##### 3. INVOCATION

Councilmember Barrett gave the invocation.

##### 4. PUBLIC COMMENT

Bennie Rush spoke in opposition to proposed Ordinance 2010-20, in support of his client D&S Entertainment and Darrell Tarvin, the owner of Shenanigan's. He said the change is due to a perceived safety issue, but that the facility is in line with the City and International Building Codes, and that he has voluntarily made concessions for the City.

Charlie Rushing spoke in opposition to proposed Ordinance 2010-20 on behalf of his business, Magnolia Lake Special Events Center. He asked that Magnolia Lake not be considered as a beer joint or a nightclub in reference to this ordinance.

##### 5. CONSENT AGENDA

*(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

- a. Approve the minutes of the City Council meeting held on January 5, 2009. [Lee Woodward, City Secretary]
- b. Authorize the amendment of the adopted Fee Schedule for FY09-10 to include the permit fee for late hours of \$150 per permit, corrected from \$289 per permit previously approved. [Lee Woodward, City Secretary]
- c. *Discussion and possible action* to continue to resist rate increase through a coalition of cities in opposition to a rate change increase request by Entergy, by adoption of Suspension Ordinance, Ordinance 2010-18, 2<sup>nd</sup> reading. [Bill Baine, City Manager]
- d. Authorize Resolution 2010-17 to join coalition of cities to resist Entergy rate change increase request. [Leonard Schneider, City Attorney]
- e. Authorize the City Manager to apply for and accept, if awarded, the Texas Parks and Wildlife grant to assist in creating a linear park along Town Creek, 2<sup>nd</sup> reading. [Dr. Sherry McKibben, Community Development Specialist]
- f. Authorize the City Manager to apply for and accept, if awarded, the Texas Parks and Wildlife Community Outdoor Outreach Program (COOP). [Dr. Sherry McKibben, Community Development Specialist]
- g. Authorize the City Manager to apply for and accept, if awarded, Texas Department of Rural Affairs (TDRA) Community Development Block Grant, Renewable Energy Demonstration Pilot Program. [Dr. Sherry McKibben, Community Development Specialist]

Councilmember Forbus made a motion to accept the Consent Agenda. Councilmember Woodward seconded the motion.

Councilmember Woodward asked whether items b, c, d, e, and f had all been read at least once. The City Secretary explained that item b was a correction for a previously approved overcharge.

The motion passed unanimously.

## 6. STATUTORY AGENDA

- a. ***Discussion and possible action to approve Ordinance 2010-20 to amend Chapter 12, "Building and Building Regulations" and Chapter 20, "Fire Prevention and Protection" of the Code of Ordinances of the City of Huntsville to regulate the occupancy of assembly occupancies that allow the use or distribution of alcoholic beverage consumption, 1<sup>st</sup> reading. [Aron Kulhavy, Director of Public Works]***

The Mayor reminded the Council that they would only discuss the item, as it was a first reading.

Councilmember Woodward asked if this was only a change in calculations. Aron Kulhavy, Director of Public Works, said it was. He expanded his remarks to say that the ordinance was to change the occupancy of businesses that sell alcoholic beverages, removing the 5 square feet per person requirement on a dance floor and have the establishment meet a 15 square feet per person requirement for all areas. He said three local establishments were expected to be most affected, namely, Shenanigan's would have an occupancy reduction of roughly 25%, The Jolly Fox approximately 35%, and Lizzard's about 15%. Mr. Kulhavy said that Lizzard's had also chosen to add exits to prevent further reductions.

Councilmember Ray asked if this change would apply to Magnolia Lake, Mr. Kulhavy was not certain but agreed to check on it.

Councilmember Woodward asked for a definition of "15 square feet net," and was told it was for areas to which the public typically had access, not including bathrooms. Councilmember Woodward asked if Lizzard's change in number of exits expanded their occupancy under the current Code, and was answered affirmatively.

Councilmember Cole asked if churches were covered by this Ordinance. Mr. Kulhavy told him church occupancy was calculated differently.

The Mayor said he thought the current occupancy load for Shenanigan's was 2000, and verified with Mr. Kulhavy that it was now at 1700. The Mayor also mentioned that buildings frequently have a limiting factor such as parking requirements, plumbing requirements, exit requirements, and wanted to know how the 1700 occupants was limited. Mr. Kulhavy said the number of exits was the most limiting factor, and that Shenanigan's had had a higher occupancy set when they had additional exits.

The Mayor also said his understanding was that businesses were typically grandfathered when building codes changed. Mr. Kulhavy said that was typical, but that staff had worked with the City Attorney to include a clause in the Ordinance so that businesses would not be grandfathered.

Councilmember Mahaffey asked if the impetus was unsafe conditions. Allwin Barrow, Director of Public Safety, said that in September 2009 an application for increased capacity to 2000 persons was made in accordance with the construction of an additional exit to be manned. However, the fire department found it was not being complied with, and served citations. Chief Barrow said another problem was responding to a number of fights, especially on Tuesday nights when drinks were a quarter each. The City renegotiated occupancy with Shenanigan's in response to the unmanned exit.

Chief Barrow said Mr. Tarvin, the owner of Shenanigan's, told him that his business was too crowded to control, and that he only has three service waitresses. Chief Barrow said that patrons cannot be observed or controlled in those numbers, and referred to 1700 complaints the police department had responded to at that location over the last three years. He also mentioned the recent stabbing death in the Shenanigan's parking lot, of a customer who had been thrown out of the establishment and had snuck back in.

Chief Barrow said he approached the City staff to work on a solution for safety. He also said alcohol was more easily made available to underage patrons, and the department had made two arrests for that Saturday night. He said they tried to think of ways to eliminate overcrowding. Chief Barrow said fire investigations have revealed that people tend to try to exit the same door they enter.

Councilmember Ray asked Chief Barrow to elaborate on underage drinking. Chief Barrow said the size of the crowd and the lack of wait staff make it difficult to determine if adults are buying alcoholic beverages at the bar and serving them to minors at the table. He also said they have had over 100 DWIs in the past year, who said they had been at Shenanigan's.

The Mayor said he thought we was hearing about operational issues but that changing a building code without grandfathering existing businesses was troubling, and wanted to know if there was another mechanism that could be used to deal with the manning of exits or other safety issues.

Councilmember Ray said he was concerned that this seemed to be a problem with a single business, but others

would also be punished. Chief Barrow said the police department had responded to 212 service calls at The Jolly Fox last year, versus 1000 at Shenanigan's, and that at an occupancy of 1300 Shenanigan's would still allow it to be one of the largest bars between Houston and Dallas.

Councilmember Forbus asked how much the businesses would be affected if the City restricted that patrons be of legal drinking age. Chief Barrow said his department estimated that 60% of the customers were underage.

The Mayor asked what the punishment would be if an establishment had an exit chained shut. Chief Barrow said the business would be immediately closed and evacuated. The Mayor asked what the response was for an unmanned exit, and the Chief said the same could probably be done, but fire department chose to issue a citation.

Councilmember Cole asked if the police department had considered patrolling inside the bars more. The Chief said they could write a citation if they felt the person was a danger to themselves or others, but then would have to find someone to take the person home. Chief Barrow also said they are most often at the establishments in response to 911 requests. He further stated that off-duty officers used to work at Shenanigan's, but had stopped doing so for the amount of pay offered and the need to be there until 3am. Because of the additional safety risk to the officers and the need for them to go in large numbers to break up a fight in a large group, the Chief said he had asked them to stop working at Shenanigan's off-duty. Councilmember Cole said there were large numbers of people at Wal-Mart, where alcohol is sold. Chief Barrow responded that at a certain size a crowd cannot be controlled, and that he was looking for a way to improve safety by reducing crowd size.

The City Manager said the police chief would pursue other avenues as well, that the issue was large numbers of intoxicated people, while the night shift was composed of 4-5 officers. Mr. Baine said it was a concern of the officers, and citizens pay if more officers are required.

Councilmember Wagamon verified that the current code requirements came from the 2003 International Building Codes. He went on to say that he had not even heard of a rumor of even a fight at Shenanigan's until the last two months, but was now hearing of 1700 calls, many to 911, and said he was disturbed that he had not heard any rebuttal to the seriousness of what was being alleged.

The Mayor permitted Mr. Rush to respond. Mr. Rush said that on January 11, 2010 he received a response to a Public Information Request he had made for all police department calls to the address of his client's establishment in 2009. He said he received 16 pages of information of 711 calls, but that many of the items were during hours which his client's business was not open or were not related to his business, such as traffic accidents.

Councilmember Wagamon said he knew the Council was committed to both the business owner, but also to a safe environment for the police department as well. Mr. Rush said his client was also concerned about the safety of his patrons, and that no one would want to go to a place where they thought they would be beaten up. Mr. Rush also said his client welcomed having police officers in his business, as he felt they were a deterrent, as was the example that police wrote eight tickets at Shenanigan's on the first night of the extended drinking hours. Chief Barrow said that arresting eight people in one night was an example of out of control, and responded to Councilmember Ray's question that anywhere from five to ten calls a night at Shenanigan's was not uncommon.

The Mayor said that public safety was one of the most fundamental responsibilities of municipal government and that this was an example of how having the two reading rule could be very beneficial by giving time to deliberate. He also said he hoped they could come up with a solution, that they needed to solve this operational issue.

The City Attorney, Leonard Schneider, said that he would like Steve Weathered to be present for the City for any meeting of the City with Mr. Rush and his client.

Councilmember Mahaffey said she was not aware underage people were permitted in bars and would like to see a history of that being permitted given to the Council.

Councilmember Barrett said he wondered, from an establishment-owner's perspective, what would be considered a normal number of calls per year, above which the Council should not be alarmed, as both the 1000 and 700 sounded high to him. Mr. Rush said he did not know, but felt his client would prefer to have no calls, and that Shenanigan's had fewer police calls than Wal-Mart or the high school.

- b. **Authorize the extension of Interlocal Agreement (with Addendum) for Public Safety Services between the City and Walker County and authorize the mayor to execute the Agreement. [Bill Baine, City Manager]**

Councilmember Woodward made a motion to authorize the agreement. Councilmember Forbus seconded the motion.

Councilmember Mahaffey asked to add language on page 2, item C of the agreement, to include "and because City residents are also County residents paying County taxes." Councilmembers Woodward and Forbus were amenable to amending their motion in this manner. Councilmember Mahaffey said that it looked as though the County was paying

three months late, and that she would have to pay a late fee if she paid her bills late. Councilmember Mahaffey was also concerned that there were false alarms in the County to which the fire department responds. The Mayor pointed out that the information they had been provided showed that it was right at half of all alarms responded to were in the County. Councilmember Mahaffey said a citizen had told her it would be a good idea to have an annual review of costs as part of the agreement.

Mr. Baine said that about 14 months ago, he had met with the County, where the percentage the County would pay had lowered from about 29% to about 20%. He said he had left there believing that he had agreement that they would return to the original percentage within the next year, but that when it came time to renew, the County said they would not give anything. He said that he and the Mayor appeared before the Commissioners and basically begged for the \$246,487.

Mr. Baine pointed out that the City residents pay 62.2% of the taxes with the expectation of fire service, and the one-third of County residents, who live outside the City, comprise 50% of the fire calls. Basically, he said, the County residents [who do not live in the City] pay roughly \$80,000 of a total bill of \$1,517, 651, the rest of which is paid by the citizens of Huntsville through their taxes. He said this is 7% or so for half the service, but that he was asking the Council to sign the agreement since he needed the money to run the fire department. He said he understood that the Council didn't like it, and that the citizens of Huntsville shouldn't like it, but that he did not want to have to make draconian decisions about fire service.

The Mayor said it was an unfair situation that the City had worked on, and that by their actions they had put the County on notice as to their dissatisfaction, but that the money was needed for the operation of the City. He said he would like to point out that the City would have the opportunity to negotiate another agreement, and that if they were not happy with that, he thought that would be the time and place to take an alternate course, but that at this point in the year the Council should take the \$246,000.

Councilmember Forbus said he understood there was a 30-day notice in the contract and that he thought the Council should have a plan in place 30 days before the contract renewal came due again and have an alternate plan for the County if they chose not to "pony up" for their share of the expenses.

Councilmember Wagamon said the gross City budget was in the \$50 million range and that \$246,000 wasn't much. He said he had intended to support the measure but had changed his mind, as the County had been giving themselves raises for each of the six years they had paid the same amount to the City and that this was a slap in the face. He said the City could cut other ongoing operations in the budget than fire protection, or cash in a CD.

Councilmember Ray agreed with Councilmember Wagamon and said the Council was elected to protect the interests of the citizens, including their monetary interests and had a duty to them. He said 62% of County taxes come from their citizens who live in the City, and that when the County Judge says the County pays 100% of EMS, that's just not true, that the City residents have already paid 62% off the top, then the City provides bays and other services for EMS in addition.

As another example, Councilmember Ray said, the City gives the County about \$400,000 for law enforcement, and those who live in town have already paid for 62% of law enforcement. He said that when the County says they're not getting anything from the City, they come to the library, the pool, the parks, and the Wynne Home, and the County government pays nothing for it, it all comes out of the City coffers. Councilmember Ray went on to say the County accused the City of not coming to them at budget time, but recalled during his first budget season the County had assured them the payment would be the same then, but increased the next year. Councilmember Ray said they are now telling the City to "pack sand." He said he had pulled the tax records for some of the County officials, and that the County Judge pays \$323 per year in County taxes for his house and 54 acres, whereas Councilmember Ray said he paid almost \$1200 in County taxes for his quarter acre in town. He went on to say it was offensive and it was time to fix the problem, here and now, receiving audience applause for his remarks.

Councilmember Mahaffey said it was her understanding that individuals are billed if they call EMS, and asked if the same happens when the fire department is called; the City Manager responded that the fire department did not bill. Councilmember Mahaffey also said that the cost of fuel statement in the agreement should say "at the actual cost of the fuel," to reflect other administrative costs. The City Manager said they were already charged that, and Councilmember Mahaffey said she would just like the agreement to reflect it in the wording.

Councilmember Zender inquired for what amount the County was asked, and the City Manager said the City asked for a return to the 30% range, about \$360,000.

Councilmember Mahaffey confirmed that the City Manager felt there had been a gentleman's agreement to this, and was told that there was, but it had not been a meeting of all the commissioners. Mr. Baine also said it takes three of the five, and the City often had [the support of] one or two.

Councilmember Wagamon recalled the City Council cut its own budget by 20% last year, had lowered its effective rate again, was paying off debt, and was trying to make an agreement for "this" much for fire protection while the County is giving itself raises and raising taxes, and that it was outrageous to put up with.

Councilmember Barrett said that whether the Council liked the agreement or not, the money was needed. He asked what there was to gain if the Council refused the money, as the City would continue to do all the things it does now, and would simply be out the money to make a point. He said that in his opinion there was a difference between asking and negotiating, that heretofore the Council had been more in an asking posture, without an alternative plan they would then

pursue. He said that citizens should have notification so that they may discuss that possibility with their County representatives. He said he was not arguing against the concerns being raised, but asked that they move forward in a way that was reasonable and orderly and not allow people who had no control over this get caught in the middle. He said he also supported Councilmember Forbus' suggestion for the next negotiation period, having clearly predetermined alternative arrangements in mind the City would be prepared to adopt if a satisfactory agreement is not reached.

The Mayor said a very fundamental part of good management is budgeting, and that this number was what was put into the budget. He said changes to the budget put an incredible pressure on the City Manager. He said he realized that things come and go, but felt there needed to be a balance between flexibility and discipline. The Mayor said that when the Council passed the budget, they knew at that point in time that the \$246,000 was the number, and that it had not changed. He said he thought that the Council needed to think carefully before making large differences to the annual budget in the intermediate time, that the time and place was at budget time, not in the middle of January.

Councilmember Mahaffey said she thought that in this case they had an obligation to the citizens.

Councilmember Mahaffey made a motion to amend the agreement from \$246,000 to \$360,000. Councilmember Wagamon seconded the motion.

Councilmember Zender said that if the County would not agree to the higher number, there needed to be a provision in the agreement for the amount to increase the next year.

City Attorney Leonard Schneider asked the Council if they could go into Executive Session so he could advise them.

The Council adjourned into Executive Session under the Texas Government Code, Chapter 441, Section 551.071 to receive legal advice on this item at 7:11pm. The Council reconvened at 7:37pm.

Councilmember Barrett said that if he thought the amendment would get the City the funds he would support it, but he did not think it would & might even complicate the matter.

Councilmember Forbus said it was an onerous situation and that the County was not standing up to what it should be doing, but that they needed to get everything they could from the County at this point.

Councilmember Mahaffey said she was really sorry the County was holding the City hostage in this way and felt the way she could best represent the citizens would be to look out for their interests.

The Mayor said he would wholeheartedly endorse the amendment if he thought it had any chance for success and that that was the reason he tried to negotiate this amount, but that he did not think it would succeed.

Councilmember Woodward said he thought it was important for the City and County to work together, and that the citizens would not benefit if this City continued to pound on the County.

Councilmember Mahaffey said the County had been getting a free ride on the citizens for six years or longer, that she felt a little guilty for not doing something about it sooner, that now was the time.

Councilmember Cole said that amending the agreement would just throw it back into Commissioners' Court and into limbo for another two to three months, and he was therefore not in favor of the amendment.

The motion to amend was not approved, in a vote of 4-5. Councilmembers Mahaffey, Wagamon, Ray and Zender voted for the amendment, the Mayor and Councilmembers Cole, Woodward, Forbus and Barrett voted against.

Councilmember Ray said you can't work with an organization that threatens frivolous lawsuits and misrepresents to the press the sequence of events. He said everything indicates the County is unwilling to work with the City, and that the County is dependent upon the City's complacency. He said 62% of everything they spend comes from [residents] inside the City limits already, and that County residents are spending less than 10% for fire service.

Councilmember Forbus asked the City Manager how seriously rejecting the \$246,000 would affect the budget and the City Manager's ability to run the City. The City Manager said they did have adequate reserves but that he thought it was wrong to spend them. Mr. Baine also said that if the current shortfall in sales tax revenue holds, the City would be short \$300,000-500,000. The City Manager said he expected to be about \$750,000 short for the year, and that he was concerned it was untenable to hold the County hostage. He also said he was willing to go to Commissioners' Court and ask for the additional \$120,000 but did not expect to get it. In response to a further question from Councilmember Forbus, Mr. Baine said he could live without the \$246,000, but that what suffers are the "rewards we give each other" such as parks, the library, etc., and he would have to curtail non-essential services, affecting the quality of life in Huntsville.

Councilmember Wagamon said last year there was a conversation about not having enough money for police and the cost of running the Wynne Home, and yet the money was found to fund the police officers and the Wynne Home stayed open. He said if they were talking about draconian cuts or essential services, there were a lot of things the City does, and that the Wynne Home should be a nonprofit.

Councilmember Barrett said he was sure the City could make it without the money, but why should it have to, it was sure money. He said they did not have a plan in place if the contract were refused. He thought it better to take the sure money and make a plan with defined alternatives for the next year.

Councilmember Ray said he kept hearing it was all or nothing, but that they were just trying to negotiate a fair deal, but that once the contract was signed all negotiations would be gone. He said they needed to fix it now.

The base motion was not approved, in a vote of 4-5. The Mayor and Councilmembers Cole, Woodward and Barrett voted for the motion. Councilmembers Wagamon, Ray, Zender, Mahaffey and Forbus voted against.

## 7. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

### a. Approve nomination of Helen Belcher to fill Board of Adjustments and Appeals seat vacated by Janet Ridley. [J. Turner, Mayor]

The Mayor said Janet Ridley has become a City employee and is ineligible to serve on the Board. He said Helen Belcher had previously worked for the City for many years.

The Mayor made a motion to approve the nomination. Councilmember Woodward seconded the motion.

The motion passed unanimously.

### b. Discussion and possible action to fund United Way unmet needs. [Councilmember Wagamon]

Councilmember Wagamon said United Way had a significant shortfall this year, and that they had a budget for unmet needs. Julie Schneider, Executive Director of United Way, said they help families and individuals in crisis situations, not for ongoing support. She said she did not like having to ask for money in the current economic conditions, and that funds were readily available for this account after disasters, but that the money did not last very long. Ms. Schneider acknowledged SAAFE House and other local nonprofits that citizens could go to for specific needs, but the people the unmet needs account assisted did not fall under those categories. She said they currently had \$168 in the account at this time, and did not anticipate additional funds unless there was disaster.

Councilmember Woodward confirmed United Way vetted recipients so that the needs were for one-time emergencies and crises.

Councilmember Forbus asked how much their shortfall was, and Ms. Schneider said they had only \$168, and could usually go through \$15,000 in two to three months. Ms. Schneider said that when Clarence Griffin had been a Councilmember, he had seen the work they do with this account, and had told her he would ask the Council for \$35,000, but she never heard anything again. She said they had been making do, and was shy to ask for money, but had seen the people who needed the money and would appreciate any amount.

Councilmember Wagamon made a motion to give \$5,000 to the United Way unmet needs account.

Councilmember Mahaffey asked the City Manager if the City had already donated to the United Way or similar requests. Mr. Baine said the Council approved \$5,000 for the 72<sup>nd</sup> National Guard Battalion, which he said he had not spent.

Councilmember Cole asked if it would be better for the City to have a campaign to allow citizens to donate rather than government getting involved, and the Mayor agreed. Councilmember Cole asked that the Council ask the City Manager to put up a table and ask for donations rather than going through the budget amendment process.

Councilmember Ray seconded the motion.

Councilmember Ray said he could not support this motion, although he would be happy to donate if United Way came to his office. He said the Council had a duty to the citizens to take care of their money, and taking taxes that citizens pay for services such as police and fire, and decide which charity to give to, that is forcing the citizens to give to charities, which may not be their choice. He said he would support a fundraiser, but not moving taxes to charities.

The Mayor said he concurred with Councilmember Ray, that he would be happy to make a donation as an individual but felt that it was an inappropriate use of taxpayer money.

Councilmember Forbus also agreed, and liked the idea of employees or citizens being able to donate, and that he would also be donating.

Ms. Schneider said she had only been in the job for a little over two years, and would never have approached the Council if she did not feel from her interaction with [former] Councilmember Griffin that it was how things were.

done. She said the City had had campaigns for United Way in the past, but not in 2009, and she did not know why. Ms. Schneider said she did not intend to offend anyone.

Councilmember Forbus said Ms. Schneider said she came to the right place in order to let citizens know.

Councilmember Ray agreed and assured her she had offended no one, that this was the right place to get in front of the citizens, and this was just a tax issue.

The City Manager said there would be an unbroken stream if the Council went down this path and donated from the City budget.

Councilmember Wagamon said he respected the libertarian view, but said if they were talking about using tax money for nonessential services he would like to look within during the next budget season at some salaries and services within the City, and would remind them they voted against this tonight.

Councilmember Woodward asked about the fund of money donated on water bills, and was told by Mr. Duke that it went to the COME Center monthly.

Mr. Schneider said he would like to remind the Council about treating everyone equally, and that they would have to explain if one charity was chosen over another. Councilmember Wagamon said he thought they had been doing this all year, that they had just given to the veterans, of whom he was one, and that no one raised this issue then.

The Mayor responded that they raised money for that, but did not spend City funds. The City Manager recalled they spent \$1500 on travel related to the National Guard, and \$800 for the Wounded Warrior banquet. Councilmember Ray said those were general welfare items, not charities.

The motion was defeated, in a vote of 2-7. Councilmembers Wagamon and Woodward voted for the motion.

**c. Discussion and possible action regarding traffic issues and TxDOT plans for new access ramps on I-45. [Councilmember Wagamon]**

Councilmember Wagamon said that in the evening's workshop, Councilmember Barrett had said losing the ramp at I-45 by Starbuck's might not be the best thing, and that the City Manager had called it a disaster, and he, Councilmember Wagamon concurred. Councilmember Wagamon said he had heard from some citizens about it also.

Councilmember Wagamon made a motion that the Council pass a resolution to send a letter to TxDOT to say the Council disagreed with their intention to remove that on-ramp at I-45 [near Highway 30]. Councilmember Ray seconded the motion.

Councilmember Forbus said he thought it was a bad decision, and would cause more traffic and accidents. He said he hoped TxDOT would keep it open.

The City Manager said he had asked staff how the current plan had come about, and that he had been told that a previous City Council had lobbied for these changes so that Ravenwood would be successful. He allowed it might be hearsay, but that he had heard it about three times from people in that business. Mr. Baine said they could ask the District Engineer, and could pass a resolution, but should know that TxDOT did not come up with this plan independent of government input.

Councilmember Wagamon said he was very involved at the Ravenwood thing and that he could not recall a single motion, second, resolution or any type of a vote by any City Council of Huntsville, Texas saying they would go to TxDOT and say they wanted to change the ramps to make Target successful, and if it was done unofficially, that was an issue. He said he would like to see if they could keep the ramp while it was here and the Target center was not built out.

Councilmember Woodward asked Tom Weger, Project Manager, how long the plans had been in place. The Mayor said that when they said Ravenwood, they were actually talking about a longer time period. Mr. Weger said he thought those decisions were made around 2001. General discussion decided they were talking about the Raven Nest Golf Course rather than the Ravenwood development.

Councilmember Woodward said the only Council activity he recalled was some redesign on the exit ramps when Ravenwood was becoming a reality, due to traffic problems that would be created there, but not that the ramps were changed. Mr. Weger said there were several revisions throughout the years, that there were some design criteria issues. Councilmember Woodward remembered there was also discussion of hospital accessibility.



Councilmember Ray said he didn't care how it came to be, but that they needed to stop it, rather than essentially diverting highway traffic down a feeder for over a mile past commercial businesses. He said this was a public safety issue, and there was a huge amount of traffic that used that ramp to access I-45.

Councilmember Forbus agreed and said something needed to be done.

Councilmember Barrett said the next on ramp would be around Possum Walk, and would not only provide congestion, but he was also concerned how traffic flow would be reconfigured in town and possibly come through the Avenues. He said it would present a challenge and that he thought it should be guided around the Avenues and neighborhoods. He said they should raise their concerns with TxDOT but in a friendly way.

The Mayor asked Mr. Weger whether the closure of the ramp was part of what was already let under contract, and Mr. Weger said he believed it was.

The Mayor said he felt the sense of Council was that they would like instruct staff to write a note to TxDOT, thanking them for their help and seeing if perhaps there was a way they could help the City on this issue.

Councilmember Mahaffey asked if they were considering a resolution, but the Mayor said a resolution had not been crafted.

Councilmember Wagamon withdrew his motion for a resolution.

**d. City Manager's Report**

**1. Report on Well 19.**

The City Manager said Well 19, at Spring Lake, had some vibration in it, so it was being shut down for inspection.

**2. Report on recycling pilot program.**

The City Manager thanked Sheriff McRae for providing agreed-upon backup labor to assist in assorting recycling material last week. Carol Reed, Director of Public Utilities, said the collection was a great success, with close to 60% participation, resulting in over 9 tons collected. She said 18 carts had been returned to the City, of the 1,239 distributed. She said of the comments they had received, they had three negative, six positive, and six suggestions and concerns.

Ms. Reed said issues of collection and processing included freezing temperatures, 30-50mph winds that day. She said they did not get their TDCJ work crew due to the temperatures, but five offenders came from the County Jail, along with Sheriff McRae and Captain Steve Fisher.

Councilmember Forbus said he thought it was very successful and reminded citizens not to put loose shred in their recycling cans.

Councilmember Mahaffey asked if they had identified operational goals, and Ms. Reed said they would continue to track participation, and any reduction in trash diverted to the landfill.

Councilmember Ray thanked the staff for their work, and also the Sheriff, Captain and their staff at the Sheriff's Department and said he thought they did a great job. He also said he was pleased with the citizens' support.

The City Manager said it was a successful program and also mentioned bagging shredded paper. He said it was difficult to have a place to dump the material [for sorting].

The City Manager said there had been both a six-inch and eight-inch water leak on 11<sup>th</sup> Street.

**8. PUBLIC COMMENT**

Reginald Irving, owner of Sonny's Club, told the Council about tickets his business had received for noise and concerns with his neighbor.

**9. MEDIA INQUIRIES**

There were no media inquiries made.

**10. ITEMS OF COMMUNITY INTEREST**

~~(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)~~

The Mayor said there would be a Town Hall meeting on Wednesday, January 20, at 6pm at the MLK Center to discuss plans to apply for community development grants through the Texas Department of Rural Affairs, and encouraged the public to attend.

Councilmember Wagamon said he would be announcing his Ward 3 Town Hall meeting at the next meeting.

#### 11. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551; Section 551.071 – consultation with counsel on legal matters including discussion of personnel matters involving incident with George Russell [Allwin Barrow, Director of Public Safety]
- b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551; Sections 551.071 and 551.0722 – receive legal advice and deliberate regarding purchase, exchange, lease or value of real property. [Leonard Schneider, City Attorney]

The Council adjourned into Executive Session at 8:40pm.

#### 12. RECONVENE

- a. Take action, if necessary, on item 11a addressed during Executive Session.

The Council reconvened at 9:39pm.

Councilmember Wagamon made a motion to investigate this matter under Section 5.04 of the City Charter. Councilmember Cole seconded the motion.

Councilmember Barrett said that officially there was no matter. He said there was no written or sworn complaint, and asked what the matter was and who was willing to swear a complaint on which the Council could act. He said there were several versions about what occurred, but no complaint, and for the City Council to essentially call for an investigation of their police department absent any complaint was a most extraordinary action. Councilmember Barrett asked on what they would base such an investigation, and said the police chief had conducted an investigation and communicated with the Council, and that he had confidence in the chief and in the department, although they may not be perfect. He said he was not perfect either and that they had nothing upon which to take action, especially not on which to take an action that he felt impugned the integrity of the chief and the department. He said that if someone felt the police department acted inappropriately, they could file a complaint. Councilmember Barrett also asked who had the expertise to conduct an investigation of the police department. He said he knew there were different perspectives and encouraged anyone who felt there had been wrongdoing to swear out a complaint and allow this to be handled by the judicial system, of whom he was not a part. He said he would need much, much more than this before he could support an investigation of the police department.

The Mayor asked if Councilmember Wagamon would mind making his motion more specific, because he thought "this matter" was too unclear.

Councilmember Wagamon amended his motion by saying the matter in 11a, George Russell's arrest, as it was stated in the Executive Session item with the same verbiage, would be adequate.

Councilmember Ray said that, for an extremely different set of reasons, he concurred with Dr. Barrett's conclusion that the Charter investigative powers were not appropriate for this situation, and that he did not think the Council should investigate this matter further. He went on to say he was deeply disappointed in the lack of candor with the factual presentations made earlier in the evening, when if the documents were viewed, all witnesses, footage and photographs agree and there was no evidence to the contrary, as was presented. He said there were some blatantly false accusations made, and asked Councilmember Wagamon to withdraw his motion.

Councilmember Wagamon said he wished to put this to rest, but did not want to withdraw his motion, that there was something fundamentally at stake here, and that this was about the Council's reasonable right to establish facts and ask questions about an event, and asked for a vote. The City Secretary said the particular Charter item was 4.05.

Councilmember Cole said the Council had an oversight function to ensure these matters were handled properly and he did not think the motion should be discarded.

Councilmember Forbus said he thought an investigation would create a "he-said, he-said" situation that would be a disruption and a waste of the Council's time.

Councilmember Mahaffey said she was very disappointed the incident occurred, and that her fear was it

happening to a citizen without George Russell's resources, that she lived two blocks away and similar things were going on at her house. She said she always worried when there weren't consequences for inappropriate actions and behaviors, but she felt trying without hiring someone to investigate would be a mistake. She said she wouldn't support the motion, but agreed with a lot of things Councilmember Wagamon said, and hoped it had been a good lesson to the community and to law enforcement.

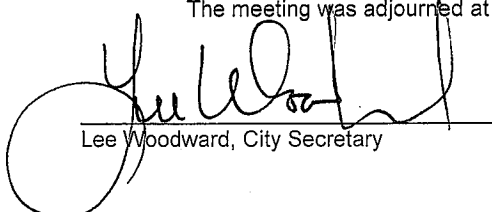
Councilmember Woodward said he wanted to go on the record to say this was wrong, that the Council was overstepping its bounds. He said he supported the police department and that the Councilmembers should be supportive of the department and the chief, and that there were other things they could do that would be more productive and more beneficial to the public.

Councilmember Wagamon said he felt he fought hard for a number of years for police and their funding, and the issue was a potential liability to the City and to accountability, and that accountability outweighs liability, because if you don't have accountability, you have nothing to save.

The motion failed, with a vote of 2-7. Councilmembers Wagamon and Cole voted for the motion.

### 13. ADJOURNMENT

The meeting was adjourned at 9:51pm.



Lee Woodward, City Secretary

**PRESENTED TO COUNCIL**

approved 2/2/10 YW